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INC. and N.M.N. CONSTRUCTION, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LARGO CONCRETE, INC., a California
Corporation; N.M.N. CONSTRUCTION, INC., a
California Corporation.

Plaintiffs,

v.

LIBERTY MUTUAL FIRE INSURANCE
COMPANY, a Massachusetts Corporation, and
DOES 1 through 100, inclusive.

Defendants.

AND RELATED COUNTERCLAIM

Case No. C07-04651 CRB (ADR)
The Hon. Charles R. Breyer

**[PROPOSED] ORDER ON LARGO'S *EX*
PARTE APPLICATION FOR:**

- 1) **STAY OF ALL PROCEEDINGS
PENDING DISPOSITION OF LARGO'S
PETITION FOR WRIT OF MANDAMUS;
and**
- 2) **RULINGS ON LARGO'S OBJECTIONS
TO EVIDENCE PRESENTED BY LMF IN
SUPPORT OF ITS MOTION TO
DISQUALIFY ROXBOROUGH,
POMERANCE & NYE**

Complaint filed: September 10, 2007

Having considered Plaintiffs/Counter-Defendants, LARGO CONCRETE, INC. and N.M.N.
CONSTRUCTION, INC.'s (hereinafter "Largo"), *Ex Parte* Application for:

1. Order granting a stay of all proceedings pending disposition of Largo's Petition for Writ
of Mandamus seeking reversal of the District Court's granting of LIBERTY MUTUAL FIRE
INSURANCE COMPANY's (hereinafter "LMF") motion to disqualify Roxborough, Pomerance &
Nye ("RPN") from representing Largo in this matter;

2. Rulings on Largo's Objections to evidence submitted by LMF in support of its motion to disqualify Roxborough, Pomerance & Nye from representing Largo in this matter; and good cause appearing therefore,

IT IS HEREBY ORDERED as follows:

1. All proceedings in this matter are stayed pending disposition of Largo's Petition for Writ of Mandamus seeking reversal of the District Court's granting of LIBERTY MUTUAL FIRE INSURANCE COMPANY's motion to disqualify Roxborough, Pomerance & Nye from representing Largo in this matter.

2. The Court's rulings on Largo's evidentiary objections are as follows:

A. Objections to Evidence Submitted In Support of LMF's Motion

1) Declaration of Lisa Kralik Hansen

Largo objected to each and every paragraph of the Declaration of Lisa Kralik Hansen ("Hansen") based on Evidence Code Sections 402, 403, 602, 802, and 805 in that it is irrelevant, based on speculation, is vague and misleading, lacks personal knowledge and/or is based on hearsay, is inherently weak, and is not the best evidence available.

Objection: Granted/Denied

2) Declaration of Melodee Yee

Largo objected to each and every paragraph of the Declaration of Melodee Yee ("Yee") based on Evidence Code Sections 402, 403, 602, 802, and 805 in that it is tantamount to perjury, is irrelevant, is based on speculation, is vague, lacks personal knowledge and/or is based on hearsay, is inherently weak, and is not the best evidence available.

Objection: Granted/Denied

B. Objections to Evidence Submitted In Support of LMF's Reply Brief

1) General Objections

Largo objected to each and every declaration submitted in conjunction with LMF's Reply to Largo's Opposition on the grounds that any evidence contained within such declaration should have been presented in conjunction with LMF's moving papers.

Objection: Granted/Denied

1 2) Specific Objections

2 a. Declaration of Greg Farkas

3 Largo objected to Paragraphs 2 and 5 of the Declaration of Greg Farkas on the grounds that
4 Exhibits "B" and "F" described therein were not provided for Largo's review.

5 Objection: Granted/Denied

6 b. Declaration of Hector Barba

7 Largo objected to Paragraph 2 of the Declaration of Hector Barba based on Evidence Code
8 Sections 402 and 403 on the grounds that the statements contained therein are irrelevant, conclusory,
9 and misleading.

10 Objection: Granted/Denied

11 c. Declaration of William Cupelo

12 Largo objected to Paragraphs 3 and 4 of the Declaration of William Cupelo based on Evidence
13 Code Sections 402 and 403 on the grounds that the statements contained therein are irrelevant and
14 misleading.

15 Objection: Granted/Denied

16 d. Declaration of Ron Skocypec

17 Largo objected to Paragraphs 4, 5, and 6 of the Declaration of Ron Skocypec based on
18 Evidence Code Sections 402, 403 and 602 on the grounds that the statements contained therein lack
19 foundation and are irrelevant and misleading.

20 Objection: Granted/Denied

21 e. Supplemental Declaration of Scott Sveslosky

22 Largo objected to Paragraphs 6, 7, 8, and 10 of the Supplemental Declaration of Scott
23 Sveslosky based on Evidence Code Sections 402, 403, and 602 on the grounds that the statements
24 contained therein lack foundation and are irrelevant and misleading.

25 Objection: Granted/Denied

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f. Declaration of Frank Falzetta

Largo objected to Paragraph 3 of the Declaration of Frank Falzetta based on Evidence Code Sections 402 and 403 on the grounds that the statements contained therein are irrelevant and misleading.

Objection: Granted/Denied

g. Declaration of Greg Brisee

Largo objected to Paragraphs 1 and 2 of the Declaration of Greg Brisee based on Evidence Code Sections 402 and 403 on the grounds that the statements contained therein are irrelevant and misleading.

Objection: Granted/Denied

IT IS SO ORDERED

DATED: January ____, 2008

THE HONORABLE CHARLES R. BREYER
UNITED STATES DISTRICT COURT JUDGE

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
 COUNTY OF LOS ANGELES)

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 5820 Canoga Avenue, Suite 250, Woodland Hills, California 91367.

On **January 29, 2008**, I served the foregoing documents described as:

[PROPOSED] ORDER ON LARGO'S EX PARTE APPLICATION FOR: 1) STAY OF ALL PROCEEDINGS PENDING DISPOSITION OF LARGO'S PETITION FOR WRIT OF MANDAMUS; and 2) RULINGS ON LARGO'S OBJECTIONS TO EVIDENCE PRESENTED BY LMF IN SUPPORT OF ITS MOTION TO DISQUALIFY ROXBOROUGH, POMERANCE & NYE

on the interested party(ies) in this action listed below:

Frank Falzetta, Esq.
 Scott Sveslosky, Esq.
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 HAMPTON LLP**
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ATTORNEYS FOR DEFENDANT
**LIBERTY MUTUAL FIRE INSURANCE
 COMPANY**

- ☒ **BY ELECTRONIC MAIL:** I caused such documents listed above to be transmitted via e-mail to each of the parties on the attached service list at the e-mail address as last given by that person on any document which he or she has filed in this action and served upon this office.
- ☐ **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand to the offices of the each addressee(s).
- ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **January 29, 2008**, at Woodland Hills, California.


 Kim Schwarz